

## **THE MINUTES OF THE REGULAR MEETING OF JUNE 28, 2018**

The regular meeting of the Sussex County Planning and Zoning Commission was held on Thursday evening, June 28, 2018 in the County Council Chamber, Sussex County Administration Office Building, Georgetown, Delaware.

The meeting was called to order at 6:00 p.m. with Chairman Ross presiding. The following members of the Commission were present: Mr. Martin Ross, Ms. Kim Hoey-Stevenson, Mr. Doug Hudson, Mr. Keller Hopkins, Mr. Robert Wheatley, with Mr. Vincent Robertson – Assistant County Attorney, Ms. Janelle Cornwell – Director, Mrs. Jennifer Walls – Planning Manager, and Mr. Jamie Whitehouse - Planner III.

Motion by Ms. Stevenson, seconded by Mr. Wheatley, and carried unanimously to approve the Agenda as amended. Motion carried 5-0.

### **OLD BUSINESS**

#### **C/U #2130 The Evergreene Companies, LLC (NKA Pallots Corner)**

**An Ordinance to grant a Conditional Use of land in a MR Medium Density Residential District for multi-family dwellings (20 townhomes) to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.3817 acres, more or less.**

The property is lying at the northeast corner of Cedar Neck Rd and Fred Hudson Rd., and on the northeast side of Cedar Neck Rd. approximately 255 ft. north of Fred Hudson Rd. 911 Address: 30733 Cedar Neck Road, Ocean View. Tax Parcels 134-13.00-72.00 and 72.01.

The Planning Commission discussed the application which has been deferred since June 14, 2018.

Mr. Hudson moved that the Commission recommend approval of C/U 2130 for The Evergreene Companies, LLC for Multi-Family Dwellings in an MR Medium Density Residential District based upon the record made during the Public Hearing and for the following reasons:

1. This application seeks approval of 20 townhome structures on 2.3871 acres, for a proposed density of approximately 8.4 units per acre.
2. The property is at the intersection of Fred Hudson Road and Cedar Neck Road, which is one of the busiest intersections in this area. The property is also bounded by single family homes and the clubhouse and pool area of an adjacent single family residential development.
3. Multiple parties appeared in opposition to this project, including residents of the adjacent Bethany Lakes development. That property, like this one, has an MR zoning, but it was developed at a much lower density on larger single-family lots. The opposition included concerns about the density, increased traffic at this already heavily-travelled intersection and other factors.
4. I am concerned about the proposed density on this small of a property. It appears that this is the maximum density that will fit on the property taking into account the dimensional and minimum parking requirements.
5. The applicant has cited the densities of other nearby developments for comparison and similarity to this development. However, many of those developments are zoned C-1,

which permits density “by-right” of up to 12 units per acre. In the case of Sunset Harbor, that density was long ago established with a manufactured home park that previously existed on the site. Here, unlike the C-1 Zoned properties in the area, this parcel zoned MR, which only permits a “by-right” base density of 4 units per acre.

6. The site is in the Environmentally Sensitive Developing Area according to the current Sussex County Comprehensive Plan. Although our Plan states that multifamily structures are appropriate in this Area, it also states that the density should primarily remain between 2 and 4 units per acre. In some cases, it may be appropriate to increase the density, especially on larger tracts that can accommodate the density, but not here on a very small tract of land at a prominent intersection.
7. I am also concerned that by maximizing the number of townhomes on this property, there is little room for overflow parking and there is very little separation between this property and the single-family development adjacent to it.
8. Section 115-218 of the Zoning Code allows the County to require the 20-foot forested buffer around a multifamily development when appropriate. Given the location and surroundings of this property, it is appropriate to require the 20-foot vegetated buffer around the entire perimeter of the project.
9. With the buffer requirements, and based upon my concerns about the overall density of the project and proposed site plan, the number of units permitted as part of this project shall be reduced to 16. That will allow for the installation of the required buffer and it will allow for additional parking within the site.
10. The development will be served by central sewer provided by Sussex County.
11. This recommendation is subject to the following conditions:
  - A. The maximum number of townhouse units shall be 16.
  - B. As provided by Section 115-218 of the Zoning Code, there shall be a forested or landscaped buffer installed around the entire perimeter of the project in compliance with Section 99-5 of the Code of Sussex County.
  - C. All entrances, intersection, roadway and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
  - D. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
  - E. The project shall be served by central water to provide drinking water and fire protection.
  - F. Interior Street design shall meet or exceed the Sussex County street design requirements.
  - G. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7:00 a.m. and 6:00 p.m., Monday through Saturday.
  - H. No other outdoor construction activities shall occur at the site except between the hours of 7:30 a.m. through 7:00 p.m., Monday through Friday, and 8:00 a.m. through 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays.
  - I. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
  - J. The applicant shall form a condominium association responsible for the perpetual maintenance, repair and replacement of the roads, the buffers and landscaping,

- stormwater management facilities, erosion and sediment control facilities and other common elements.
- K. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
  - L. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - M. As stated by the applicant, there shall be a swimming pool and pool house installed on the premises. The swimming pool shall be at least 15 feet by 35 feet in size.
  - N. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Mr. Hopkins and carried unanimously to forward this application to the Sussex County Council with a recommendation that the application be approved for the reasons stated. Motion carried 5-0.

## PUBLIC HEARINGS

Mr. Robertson described how the public hearings are processed.

### **2018-6 Bay Knolls F/K/A Fenwick Knolls – Fenwick Commons, LLC**

This is a cluster subdivision to divide 13.33 acres +/- into 25 single family lots to be located on a certain parcel of land lying and being in Baltimore Hundred, Sussex County. The property is lying at the southwest corner of Lighthouse Rd. (Rt. 54) and Sand Cove Rd. and on the east side of Sand Cove Rd. approximately 211 ft. south of Lighthouse Rd. (Rt. 54). Tax Parcel: 533-19.00-52.00. Zoning District. AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were an exhibit booklet, site plan, comments from the TAC, comments from Sussex Conservation District, Sussex County Engineering Utility and Planning Division, Department of Agricultural, Department of Health and multiple letters from DNREC.

Mr. Robertson advised that he has reviewed the Covenants.

The Commission found Gene Bayard, Attorney with Morris, James, Wilson & Halbrook and Ken Christenbury, with Axiom Engineering were present on behalf of the application; that Mr. Bayard stated this property was the former Change of Zone #1827 and Conditional Use # 2098 that the Commission approved in November 2017 and requested these records be made part of the record for this application; that the new application is for 25 single family lots and the density is less than 1.9 units per acre; that the application complies with Chapter 99-9C and the ESDDOZ; that Mr. Christenbury stated there is a single lane road coming into the subdivision and it is adjacent to agricultural land; that they have left room for interconnectivity; that all the lots back up to stormwater management pond; that there will be a 25 foot buffer around the cemetery; that there will be on street parking for the cemetery; that 60% of the woods will be preserved; that the stormwater ponds have been relocated to a central area on the site; that the project consists of 13.33 acres with 25 dwelling units and that is a density of 1.87 units per acre

and 42% of open space; that the project is adjacent to other single family homes; that it will have the proper buffers adjacent to agricultural land; that there will be an extended walking trail to the other side of the road and will connect to the Americana Bayside trail; that the stormwater flows from the west to the east; that the entire property will have a 20 foot forest buffer; that the water will be provided by Artesian Water; that the sewer will be provided by the County; that the stormwater management will use the Best Management Practices; that there is safe vehicular access; that there will be a 10 foot wide bike path on Sand Cove Road; that there is an internal pedestrian path; that there is no detracting to property values; that the target buyer for the community is retirees and will have a small impact on schools; that DelDOT has issued a letter of no objection to the previous plan with double the density; and that there will be a 14 foot Right of Way dedication on Route 54 and a 19 foot on Sand Cove Road.

The Commission found that no one spoke in favor or in opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

Mr. Wheatley moved that the Commission grant preliminary approval of Subdivision # 2018-6 for Bay Knolls – Fenwick Commons, LLC based upon the record made during the Public Hearing and for the following reasons:

1. This application seeks the approval of 25 single family lots on 13.1 acres within the Environmentally Sensitive Developing Area and the AR-1 Zoning District. The proposed density is below the maximum density permitted in the AR-1 Zone and the Environmentally Sensitive Developing Area.
2. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has addressed the requirements of Section 99-9C of the Code.
3. The property is in an area where other residential development has occurred, including the large mixed-use Bayside Development and other single family and multi-family developments. This project is consistent with those nearby uses.
4. The proposed development will not have an adverse impact on the neighboring properties or roadways.
5. By utilizing the cluster development option, the project will have 5.55 acres, or approximately 42% of the property, preserved as common open space.
6. The items set forth in Section 99-9C of the Subdivision Code have been favorably addressed by the applicant.
7. The development will be served by central sewer provided by Sussex County.
8. This preliminary approval is subject to the following conditions:
  - A. The maximum number of residential units shall be 25.
  - B. All entrances, intersection, roadway and multi-modal improvements shall be completed by the developer in accordance with all DelDOT requirements.
  - C. The project shall be served by Sussex County sewer. The developer shall comply with all Sussex County Engineering Department requirements including any offsite upgrades necessary to provide service to the project.
  - D. The project shall be served by central water to provide drinking water and fire protection.
  - E. Interior Street design shall meet or exceed the Sussex County street design requirements.
  - F. There shall be a 20 foot wide forested or landscaped buffer installed around the entire

- perimeter of the site. Where appropriate, this buffer can utilize existing woodlands to satisfy the vegetation requirements of the buffer area.
- G. The applicant shall submit as part of the Final Site Plan a landscape plan showing the proposed tree and shrub landscape design, including any buffer areas. The landscape plan shall clearly designate all existing forested area that will be preserved.
  - H. All construction and site work on the property, including deliveries of materials to or from the property, shall only occur between 7:00 a.m. and 6:00 p.m., Monday through Saturday.
  - I. No other construction activities shall occur at the site except between the hours of 7:30 a.m. through 7:00 p.m., Monday through Friday, and 8:00 a.m. through 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays.
  - J. Street naming and addressing shall be subject to the review and approval of the County Mapping and Addressing Departments.
  - K. The applicant shall form a homeowners' association responsible for the perpetual maintenance, repair and replacement of the roads, any buffers and landscaping, stormwater management facilities, erosion and sediment control facilities and other common elements.
  - L. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.
  - M. The Final Site Plan shall contain the approval of the Sussex County Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.
  - N. The developer, and then the HOA Association shall protect and preserve the Hudson Family Cemetery on the property by installing a perimeter fence around the cemetery made of wrought iron or anodized aluminum. Parking shall also be provided in common with the amenity area parking lot for the Hudson family members wishing to visit the cemetery. Access to the cemetery shall be shown on the Final Site Plan.
  - O. The applicant shall coordinate with the Indian River School District to establish a school bus stop area, which shall be shown on the Final Site Plan if required by the District.
  - P. As shown on the Preliminary Site Plan, a location for possible future interconnectivity with the property to the southeast shall be provided.
  - Q. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
  - R. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Wheatley, seconded by Mr. Hopkins and carried unanimously to grant Preliminary Approval with Final Subdivision Plan approval by Planning and Zoning Commission. Motion carried 5-0.

**2018-7 Wellesley – J.G. Townsend, Jr. & Co.**

This is an ESDDOZ/cluster subdivision divide 73.29 acres +/- into 132 single family lots to be located on certain parcels of land lying and being in Lewes and Rehoboth Hundred, Sussex County. The development is the rear portion of 3 parcels lying at the southwest side of Warrington Rd. and at the south side of John J. Williams Hwy. (Rt. 24) approximately 300 ft. from said intersection

and being on the south side of John J. Williams Hwy. (Rt. 24) approximately 1,100 ft. west of Warrington Rd. and at the southwest corner of John J. Williams Hwy. (Rt. 24) and Mulberry Knoll Rd. Tax Parcels: portions of 334-12.00-46.01, 334-12.00-113.00, and 334-12.00-116.00. Zoning District. AR-1 (Agricultural Residential District).

Ms. Cornwell advised the Commission that submitted into the record were a PLUS Response letter, an exhibit booklet, subdivision plan, comments from TAC, multiple letters from the DNREC, and the Sussex County Engineering Utility and Planning Division.

The Commission found Gene Bayard, Attorney with Morris, James, Wilson, and Halbrook, Ring Lardner, with Davis, Bowen and Friedel and Nick Hammond, a Principal of Wellesley Partners, LLC were present on behalf of the application; that Mr. Lardner stated there are some wetlands to the east and other areas that lead to the headwaters of Arnell Creek; that the project generates less than 2000 trips per day and less than 200 per hour; that DelDOT approved a fee in lieu of the TIS; that DelDOT did not comment on the entrance location; that spotted salamanders were identified on site and DNREC suggested comments; that the salamander is protected due to the layout of the site; that an Environment Assessment and Public Facilities report were submitted; that the site is in the Excellent Recharge Area and is under 35% impervious in that area; that the site will be served by public water and sewer; that the site is located 50 feet from existing residential uses; that there will be a 30 foot buffer along agricultural land; that they tried to preserve as much of the woodlands as feasible; that the entrance access is located across from Arbor-Lyn; that the subdivision will consist of 132 single family lots; that is a gross density of 1.80 units per acre; that they will provide road improvements and meet all County standards with sidewalks on one side; that 80 percent of existing woodlands will be preserved; that the woodland will provide a corridor for the salamanders; that the minimum lot size is 9,000 square feet; that a buffer will be provided ranging in depth from 25 feet to 175 feet with an average of 75 feet around the wetlands; that the back of the lots will have separation of 150 feet to 300 feet from the Redden Ridge Subdivision and 95 feet to 215 feet from the Arnell Creek Subdivision; that there is potential interconnectivity to the land to the north; that they request a waiver from the 50 foot agricultural setback as the adjacent agricultural land will eventually be developed and the owner of the adjacent Farmland approves the proposed reduction; that the stormwater management will use Best Management Practices; that the pool and pool house will be centrally located; that water will be provided by Tidewater Utilities; that sewer will be provided by Sussex County; that extensive infrastructure will be built due to the length of the sewer connection; that they will contribute to planned road improvements; that electric will be provided by Delaware Electric Co-op; that the proposed density is similar to other existing subdivisions; that the project will not disturb wetlands and the lots are not located in flood plain; that there is approximately 29.07 acres of open space which is about 40%; that Mr. Hammond stated they will preserve all the natural features; that the density is equal to the Villages Old Landing, it is higher than Arnell Creek Subdivision of 1.6 units per acre, less than Arbor-Lyn Subdivision which is 4 units per acre and Redden Ridge is 2.4 units per acre; that there will be several road improvement projects coming, including widening of Route 24 and the plans are underway at Warrington Road and Old Landing Road; that there are no rate increase in utilities; that the referendum passed to address the school concerns and anticipate retirees and pre retirees with fewer school age children; and that they will look at the ability to provide additional access to the woods to the south.

The Commission found that no one spoke in favor to the application.

The Commission found that Margaret Colvin, Joe Lawler and CJ Bailey spoke in opposition to the application; that Ms. Colvin stated concerns with the estimates for the daily trips and asked questions about the salamanders in the area; that Mr. Lawler stated he wanted to know where trees are being removed and where the Environmentally Sensitive Development Area is located; that Mr. Bailey had questions regarding the location and alignment of the entrances to the project and Arbor-Lyn and location of the utilities; that Mr. Lardner responded there is already a water line on Warrington Road; that there is a pump station in the back of the project which will gravity feed downhill to the pump station for sewer; that the pump station will have a force main and go across the farm field, under Route 24 and along Mulberry Knoll Road all the way to the intersection of Cedar Grove Road to the existing County pump station.

At the conclusion of the public hearings, the Commission discussed this application.

Mr. Hudson moved that the Commission grant preliminary approval of Subdivision # 2018-7 for Wellesley – J.G. Townsend, Jr. & Co. based upon the record made during the Public Hearing and for the following reasons:

1. The applicant is seeking approval of a subdivision within the Environmentally Sensitive Developing Area and the AR-1 Zoning District. Although the minimum permitted lot area is 7,500 square feet, the Applicant is proposing lots with a minimum size of 9,000 square feet, and an average lot of 11,758 square feet.
2. The proposed subdivision will have no more than 132 lots on approximately 73.01 acres. This results in a gross density approximately 1.8 units per acre which is below the maximum density permitted in the AR-1 Zone and the Environmentally Sensitive Developing Area.
3. This subdivision will not have a significant impact on the neighboring properties or area roadways. It is consistent with the trend of development in this area.
4. The proposed subdivision meets the purpose and standards of the Subdivision Code, and the applicant has addressed the requirements of Section 99-9C of the Code.
5. The project will be served by central water and sewer.
6. The development complies with the Sussex County Comprehensive Plan as a low density, single family dwelling subdivision.
7. The development will include approximately 29.53 acres of open space which is a significant portion of the site. Part of this open space includes the preservation of 13.89 acres of forested areas, which is approximately 80% of the existing woodlands on the site.
8. The subdivision incorporates a landscaped or forested buffer of at least 30 feet in width from the boundary of the farmland to the west of this property. In addition, a buffer from all wetlands has been provided with a depth ranging from 25 feet to 175 feet, and an average depth of 75 feet along the southeast property line adjacent to Arnell Creek and 50 feet along the southwest property line.
9. The subdivision also includes a separation of between 150 feet and 300 feet from the back of lots to the existing Redden Ridge subdivision, and it provides a separation of between 95 feet and 215 feet from the back of lots to the existing Arnell Creek subdivision.
10. The proposed subdivision provides for future interconnectivity with the undeveloped

property to the west of it.

11. A waiver shall be granted from the 50-foot separation requirement along the property to the west. The Agricultural Use Protection Notice will be included in the deeds to the properties when sold. The adjacent landowner has consented to this waiver.
12. This preliminary approval is subject to the following:
  - A. There shall be no more than 132 lots within the subdivision.
  - B. The developer shall establish a homeowner's association responsible for maintenance of streets, roads, buffers, stormwater management facilities and other common areas.
  - C. The stormwater management system shall meet or exceed the requirements of the State and County. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management area and erosion and sedimentation control facilities.
  - D. A forested or landscaped buffer of at least 20 feet in depth shall be installed along the entire perimeter of the project. This buffer shall be at least 30 feet in width from the boundary of the farmland to the west of this property. The Final Site Plan shall contain a landscaped plan for all these areas.
  - E. The subdivision shall be served by Sussex County for sewer service.
  - F. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection.
  - G. Street design shall meet or exceed Sussex County standards.
  - H. The development shall be served by its own on-site active amenities including a pool and pool house.
  - I. The amenities shall be completed prior to the issuance of the 60<sup>th</sup> residential building permit.
  - J. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
  - K. Deliveries of dirt, fill or other similar materials shall only be made to or from the site between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday.
  - L. No outdoor construction activities shall occur at the site except between the hours of 7:30 a.m. through 7:00 pm., Monday through Friday, and 8:00 a.m. through 2:00 p.m. on Saturdays. There shall be no construction activities at the site on Sundays.
  - M. The Final Site Plan shall indicate all forested areas that will be preserved.
  - N. As stated by the Applicant, there shall be a buffer from all wetlands. The buffer shall have a depth ranging from 25 feet to 175 feet, and an average depth of 75 feet along the southeast property line adjacent to Arnell Creek and 50 feet along the southwest property line.
  - O. As shown on the Preliminary Site Plan, there shall be a location provided for future interconnectivity with the undeveloped property to the west of this subdivision.
  - P. The Applicant shall coordinate and cooperate with the local school district's transportation manager to establish school bus areas.
  - Q. A revised Preliminary Site Plan either depicting or noting these conditions must be submitted to the Office of Planning and Zoning.
  - R. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion by Mr. Hudson, seconded by Ms. Stevenson and carried unanimously to grant Preliminary Approval with Final Subdivision Plan approval by Planning and Zoning



Commission. Motion carried 5-0.

**C/U #2133 Dr. Laima Anthaney and Dr. Michael Cahoon**

**An Ordinance to grant a Conditional Use of land in an AR-1 Agricultural Residential District for professional offices to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 0.3443 acre, more or less.** The property is lying on the south side of Savannah Rd., approximately 0.89 mile east of Wescoats Rd. 911 Address: 1200 Savannah Rd., Lewes. Tax Parcel: 335-8.14-47.00

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis, exhibit booklet, site plan, comments from the Sussex Conservation District, DelDOT Service Level Evaluation, Sussex County Engineering Utility and Planning Division.

The Commission found Rachael Bleshman, Attorney with Sergovic, Carmean, Weidman, McCartney and Owens was present on behalf of the applicant; that Ms. Bleshman stated the medical dental office has been there for over 20 years and is retiring from the dental use and looking to rent the space as professional office; that the previous Conditional Use is in compliance; that the Land Use classification per the Comprehensive Plan is in the Environmental Sensitive Developing Area; that there are over 20 Conditional Uses in the area; that this is a reason to existing Conditional Use to allow professional offices other than a dental office, which is the only use allowed under the current Conditional Use; and that the site plan will not change or a result of this application and the entity building will continue to be utilized for the office use.

The Commission found that no one spoke in favor or opposition to the application.

At the conclusion of the public hearings, the Commission discussed this application.

Ms. Stevenson moved that the Commission recommend approval of C/U 2133 for Dr. Laima Anthaney and Dr. Michael Cahoon for professional offices based upon the record made during the Public Hearing and for the following reasons:

1. This property is located along Savannah Road near the city limits of Lewes. This is an area that has developed with similar medical and professional offices over the years. Like this property, most of these are occurring in residential dwellings that have been converted to office use.
2. This property was approved in 1991 under Ordinance #796 for a Conditional Use as a dental office, and has been used as a dental office for more than 25 years. This conditional use for professional offices allows more flexibility in the use beyond just a dental office.
3. This property is located in the Environmentally Sensitive Developing Area under the current Comprehensive Land Use Plan. This type of use is appropriate within that Area according to the Plan.
4. The minor change in the approved use will not adversely affect neighboring properties, roadways or area traffic.
5. The City of Lewes has indicated that it will be providing sewer service to this property in the near future.
6. No parties appeared in opposition to this application.

7. Ordinance # 796 permitted 3 front yard parking spaces, but limited them to employee use. That limited approval shall continue under this Conditional Use.
8. This recommendation is subject to the following conditions:
  - A. The hours of operation shall be between 8:00 a.m. through 6:00 p.m., Monday through Saturday. On Sunday, any business hours shall be between 9:00 a.m. and 4:00 p.m.
  - B. The parking spaces located in the front yard shall only be used by the owners of the business that exist on the premises or their employees.
  - C. One lighted sign shall be permitted. It shall not exceed 32 square feet per side.
  - D. Any changes to the site shall require the review and approval of the site plan by the Sussex County Planning Zoning Commission.

Motion by Ms. Stevenson, seconded by Mr. Hudson, and carried unanimously to forward this application to Sussex County Council with the recommendation that the application be approved. Motion carried 5-0.

**C/U #2149 Covered Bridge Trails, LLC**

**An Ordinance to grant a Conditional Use of land in a MR (Medium-Density Residential District) for an amendment of a condition of approval and revise the area for CU 2012 Ordinance 2430 to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 36.647 acres, more or less.** The property is lying on the north end of Tulip Dr. approximately 487 ft. north of Coastal Hwy. (Rt. 1). 911 Address: N/A. Tax Parcel: 335-11.00-59.00

Ms. Cornwell advised the Commission that submitted into the record were a staff analysis and a site plan.

The Commission found Ring Lardner, with Davis, Bowen & Friedel, and Preston Schell and Ben Gordy with Covered Bridge Trails, LLC, were present on behalf of the application; that Mr. Lardner stated this is a request to amend Condition A of the previous Conditional Use and the boundary of Conditional Use #2012 that was adopted by County Council; that the previous application only allowed for 43 single family homes and the applicant would like the ability to increase the number of single family homes and decrease other housing types; that they would also like to amend the boundary of the Conditional Use; that based on the revised plan they were able to re-create Lot 1 on the opposite side of the bridge; that they intend to build a house on the former parcel by amending the condition for the home which will become part of the Dutch Acres Subdivision; and that Mr. Schell stated there is no intention to build more than the 134 homes originally approved.

The Commission found that no one spoke in favor to the application.

The Commission found that Brian O' Neill, Steve Dignon, Steven Stark, and Kent Schock spoke in opposition to the application; that they had concerns related to site construction and questions about the layout and potential for more homes.

At the conclusion of the public hearings, the Commission discussed this application.

Ms. Stevenson moved that the Commission recommend approval of C/U 2149 to amend a condition of approval and to revise the area contained in CU # 2012 and Ordinance # 2430 based upon the record made during the Public Hearing and for the following reasons:

1. Conditional Use # 2012 was approved by County Council on December 15, 2015 as Ordinance # 2430 with Condition "A" which stated "There shall be no more than 134 units with a mixture of 43 single family units and the balance split between duplex units and townhouse units".
2. The applicant is seeking greater flexibility in the number of different types of units allowed, with a minimum of 43 single family units.
3. The total number of units within the project will not change as a result of this amendment request.
4. This change will remain consistent with the types of housing that exists in the area, which includes a mixture of single family homes, townhomes and multifamily units.
5. The applicant is also seeking to amend the area of the approved conditional use by deleting approximately .27 of an acre representing an existing lot that was originally to be incorporated into the development. This small reduction in the overall area will not have an adverse impact on the project, the community or area roadways.
6. Based on the foregoing, I move that we approve the reduction of overall acreage of CU #2012 and Ordinance #2430 from 36.935 acres to 36.664 acres, and that Condition A of CU #2012 and Ordinance #2430 shall be amended to state; "There shall be no more than 134 units, being a mixture of a minimum of 43 single family units and the balance split between duplex units and townhouse units." The remainder of the Conditions imposed by CU #2012 and Ordinance #2430 shall remain in effect.

Motion by Ms. Stevenson, seconded by Mr. Wheatley, and carried unanimously to forward this application to Sussex County Council with a recommendation that the application be approved. Motion carried 5-0.

## OTHER BUSINESS

### **Americana Bayside (RPC)**

#### Revised Master Plan

Mr. Whitehouse advised the Commission that this a revised Master Plan for the Americana Bayside Residential Planned Community to show the most recent updates to the Master Plan, since Planning and Zoning Commission approved the last revision at its meeting of January 11, 2018. The Revised Masters plan outlines the 1,338 lots currently with and that this would continue to be below the 1,700 dwelling units permitted. The Revised Master Plan includes the changes to the composition of the units, associated with Lot 90 within Phase 2, and Village A. The parcel is zoned MR-RPC and the Tax Parcel is 533-19.00-39.00.

Motion by Mr. Hudson, seconded by Mr. Hopkins, and carried unanimously to approve the revised master plan. Motion carried 5-0.

### **Americana Bayside– Phase 2, Lot 90 (RPC)**

#### Final Site Plan

Mr. Whitehouse advised the Commission that this is a Final Site Plan for Americana Bayside – Lot 90 (Parcel 39) for the creation of single-family lots on the site of the former amenities

building and the inclusion of a small area of former open space into an existing lot. The proposal would bring the total number of lots within Americana Bayside from 1,333 to 1,338 and would be below the 1,700 dwelling units permitted. Planning and Zoning Commission approved the Preliminary Site Plan at its meeting of January 11, 2018. The Final Site Plan complies with the Zoning and Subdivision Codes. The parcel is zoned MR-RPC and the Tax Parcel is 533-19.00-39.00. Staff are in receipt of all required agency approvals.

Motion by Mr. Hudson, seconded by Mr. Wheatley, and carried unanimously to approve the final site plan. Motion carried 5-0.

#### **Americana Bayside– Village A (RPC)**

##### **Revised Preliminary Site Plan**

Mr. Whitehouse advised the Commission that this is a Revised Preliminary Site Plan for 96 detached single-family dwellings within the Americana Bayside Residential Planned Community. On April 16, 2018 the Sussex County Board of Adjustment approved a variance for (24) “Single Family Patio Homes” within the Americana Bayside development to have a minimum lot width of 48 feet and a minimum lot size of 5, 700 square feet. The Revised Preliminary Site Plan incorporates the reduced lot widths for 24 of the 96 lots previously approved by Planning & Zoning Commission at its meeting of August 13, 2015. The Revised Preliminary Site Plan complies with the Zoning and Subdivision Codes, and all conditions of approval for the RPC. The parcel is zoned MR-RPC (Medium Density Residential Planned Community) and the Tax Parcel is 533-19.00-36.00. Staff are awaiting agency approvals.

Motion by Mr. Hudson, seconded by Ms. Stevenson, and carried unanimously to approve the revised preliminary site plan with final approval subject to Planning Commission upon receipt of all agency approvals. Motion carried 5-0.

#### **Four Seasons at Belle Terre (fka Belle Terre) (2016-15)**

##### **Preliminary Amenities Plan**

Mr. Whitehouse advised the Commission that this is a Preliminary Amenities Plan for a 6,078 SF clubhouse building, swimming pool, storage buildings and sports courts as part of the Four Seasons at Belle Terre Subdivision. The Planning & Zoning Commission approved the Final Subdivision Plan for Phase 1 of the Subdivision at its meeting of September 28, 2017. The Preliminary Subdivision Plan complies with the Zoning Code, and all conditions of approval. Staff are awaiting agency approvals. Tax Parcel: 334-12.00-17.00. Zoning: AR-1 (Agricultural Residential Zoning District).

Motion by Ms. Stevenson, seconded by Mr. Wheatley, and carried unanimously to approve the preliminary amenities plan with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

#### **Harbeson Mini Storage (S-18-06)**

##### **Preliminary Site Plan**

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for a 74,500 SF self-storage complex, site improvements and landscaping on a 7.84 AC parcel of land that is accessed from Lewes Georgetown Highway (U.S Route 9). The site is within the CR-1 (Commercial Residential) and AR-1 (Agricultural Residential) Zoning Districts. The Preliminary Site Plan

Complies with the Zoning Code. Staff are awaiting agency approvals. Tax Parcel: 235-30.00-8.02

Motion by Mr. Hopkins, seconded by Mr. Hudson, and carried unanimously to approve the preliminary site plan with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

### **Home 2 Suites (S-18-46)**

#### **Preliminary Site Plan**

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for a 3-story, 110-bedroom room hotel, 1,298 SF management office, on-site car parking area, and other associated works on a 3.66 parcel of land within the C-1 (General Commercial) Zoning District. The parcel is accessed from Coastal Highway (Rt. 1) and Savannah Road (Rt. 9). Tax Parcels: 334-6.00-17.00. The Preliminary Site Plan complies with the Zoning Code. Staff are awaiting agency approvals.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the preliminary site plan with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

### **Lewes Hotel (S-18-50)**

#### **Preliminary Site Plan**

Mr. Whitehouse advised the Commission that this is a Preliminary Site Plan for a 96-bedroom, hotel building with a total floor area of 64,226 SF with associated car parking, landscaping and other ancillary works, to be located off Marsh Road, and Five Points Square. The Preliminary Site Plan is accompanied by a written request for a modification of the required on-site parking spaces to reduce the number from 154 spaces to 106 spaces. The Preliminary Site Plan otherwise complies with the Zoning Code. Staff are awaiting agency approvals. The site is within the C-1 (General Commercial) Zoning District. Tax Parcels: 334-6.00-26.03, 26.04, and 26.05.

The Commission held a discussion on parking request; that there is no banquet room, meeting room or restaurant; and that if all 96 rooms were occupied it would leave ten parking spaces for the employees and staff.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the preliminary site plan with waiver to reduce the number of required parking spaces with final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

### **Anthem Subdivision (2004-53)**

#### **Preliminary Amenities Plan**

Mr. Whitehouse advised the Commission that this is a Preliminary Amenities Plan for the Anthem Subdivision (2004-53) for a 812 SF pool house, outdoor swimming pool, car parking area and walking track. The submitted Preliminary Amenities Plan complies with the Zoning Code, and all conditions of approval for subdivision 2004-53. Staff are awaiting agency approvals. Tax Parcel: 235-26.00-7.00. Zoning District: AR-1 (Agricultural Residential) Zoning District.

Motion by Ms. Stevenson, seconded by Mr. Hopkins, and carried unanimously to approve the preliminary amenities plan and final approval by staff upon receipt of all agency approvals. Motion carried 5-0.

### **Fox Haven II (2018-03)**

#### **Amend Condition of Approval**

Mr. Whitehouse advised the Commission that this is an application to amend the conditions of approval for Fox Haven II (2018-03). Planning and Zoning Commission granted Preliminary Subdivision Plan approval at its meeting of May 24, 2018 subject to conditions. Condition 'H' requires all of the amenities to be completed prior to the issuance of the 30<sup>th</sup> residential building permit. The applicant has requested that the wording of Condition 'H' be amended to require that the developer shall begin construction of the active amenities before the issuance of the 30<sup>th</sup> residential building permit and that the developer shall complete all amenities prior to the issuance of the 60<sup>th</sup> residential building permit. The property is zoned GR and is within the Environmentally Sensitive Development District Overlay Zone (ESDDOZ). Tax Parcel: 533-11.00-48.00

Motion by Mr. Wheatley, seconded by Mr. Hudson, and carried unanimously to approve the request to amend Condition of Approval. Motion carried 5-0.

### **GNJ Properties**

#### **Minor Subdivision off 50' easement**

Ms. Walls advised the Commission that this is a minor subdivision to create three new lots each measuring 0.75 acres +/- off a 50' easement off Delmar Rd. leaving a residual parcel measuring 0.918 acres +/- with an entrance on Waller Rd. Tax Parcel: 532-20.00-31.00. Zoning District: AR-1 (Agricultural Residential District). Staff are awaiting agency approvals.

Motion by Mr. Wheatley, seconded by Ms. Stevenson, and carried unanimously to approve the minor subdivision off 50 ft. easement with final approval subject to staff upon receipt of all agency approvals. Motion carried 5-0.

### **Additional Business**

The Commission held a discussion to review the Annual Report to the State; that Mr. Robertson stated that since July 1, 2017 the County has received 263 applications filed for all types of land use approvals; that there were 22 new major subdivisions with a total of 1,964 new lots; that the County also processed 22 re-zoning applications, 42 conditional use applications, and 177 site plans; that there was a total re-write of the Commercial Zoning Districts; that there was also a rewrite of Chapter 110; that the Wolfe Neck Treatment Facility is currently farmed and they are looking to do a re-forestation program, open the space for public use, and connect to the Junction-Breakwater Trail; that the County has assisted 250 households thru Community Development and Housing; that Economic Development office has developed 74 acres of the King Farm project; that Proximity Malt has begun production in Laurel; that the County has partnered with a group to provide sport fields; and that Sussex County has renewed its contribution to farmland preservation.

That the Commission recognized Mr. Ross for his service on the Planning Commission; and

Mike Johnson, Mark Davidson and Rodney Smith wished Mr. Ross well.

Meeting adjourned at 8:32 p.m.